

(d) *Treatment of partnerships.* For purposes of this part:

(1) *Treatment as a group health plan.* (See 29 CFR 2590.732(d)(1) and 45 CFR 146.145(d)(1), under which a plan providing medical care, maintained by a partnership, and usually not treated as an employee welfare benefit plan under ERISA is treated as a group health plan for purposes of Part 7 of Subtitle B of Title I of ERISA and Title XXVII of the PHS Act.)

(2) *Employment relationship.* In the case of a group health plan, the term *employer* also includes the partnership in relation to any bona fide partner. In addition, the term *employee* also includes any bona fide partner. Whether or not an individual is a bona fide partner is determined based on all the relevant facts and circumstances, including whether the individual performs services on behalf of the partnership.

(3) *Participants of group health plans.* In the case of a group health plan, the term *participant* also includes any individual described in paragraph (d)(3)(i) or (ii) of this section if the individual is, or may become, eligible to receive a benefit under the plan or the individual's beneficiaries may be eligible to receive any such benefit.

(i) In connection with a group health plan maintained by a partnership, the individual is a partner in relation to the partnership.

(ii) In connection with a group health plan maintained by a self-employed individual (under which one or more employees are participants), the individual is the self-employed individual.

(e) *Determining the average number of employees.* [Reserved]

[T.D. 9166, 69 FR 78746, Dec. 30, 2004]

#### **§ 54.9833-1 Effective dates.**

Sections 54.9801-1 through 54.9801-6, 54.9831-1, and this section are applicable for plan years beginning on or after July 1, 2005.

[T.D. 9166, 69 FR 78746, Dec. 30, 2004]

## **PART 55—EXCISE TAX ON REAL ESTATE INVESTMENT TRUSTS AND REGULATED INVESTMENT COMPANIES**

### **Subpart A—Excise Tax on Real Estate Investment Trusts**

Sec.

55.4981-1 Imposition of excise tax on certain real estate investment trust taxable income not distributed during the taxable year; taxable years ending on or before January 1, 1987.

55.4981-2 Imposition of excise tax with respect to certain undistributed income of real estate investment trusts; calendar years beginning after December 31, 1986.

### **Subpart B—Excise Tax on Regulated Investment Companies**

55.4982-1 Imposition of excise tax on undistributed income of regulated investment companies.

### **Subpart C—Procedure and Administration**

55.6001-1 Notice or regulations requiring records, statements, and special returns.

55.6011-1 General requirement of return, statement, or list.

55.6061-1 Signing of returns and other documents.

55.6065-1 Verification of returns.

55.6071-1 Time for filing returns.

55.6081-1 Extension of time for filing the return.

55.6091-1 Place for filing Chapter 44 tax returns.

55.6091-2 Exceptional cases.

55.6151-1 Time and place for paying of tax shown on returns.

55.6161-1 Extension of time for paying tax or deficiency.

55.6165-1 Bonds where time to pay tax or deficiency has been extended.

AUTHORITY: 26 U.S.C. 6001, 6011, 6071, 6091, and 7805.

Section 55.4981-1 also issued under sec. 860(e), 92 Stat. 2849 (26 U.S.C. 860(e); sec. 860(g), 92 Stat. 2850 (26 U.S.C. 860(g)); and sec. 7805, 68A Stat. 917 (26 U.S.C. 7805) of the Internal Revenue Code of 1954), 26 U.S.C. 7805.

Section 55.6011-1 also issued under 26 U.S.C. 6011(a); Section 55.6071-1 also issued under 26 U.S.C. 6071(a); Section 55.6091-1 also issued under 26 U.S.C. 6091(a).

Section 55.6151-1 also issued under 26 U.S.C. 6151.

SOURCE: T.D. 7767, 46 FR 11282, Feb. 6, 1981; 46 FR 15263, Mar. 5, 1981, unless otherwise noted.

### Subpart A—Excise Tax on Real Estate Investment Trusts

#### § 55.4981-1 Imposition of excise tax on certain real estate investment trust taxable income not distributed during the taxable year; taxable years ending on or before January 1, 1987.

Section 4981 as in effect before amendment by the Tax Reform Act of 1986 imposes an excise tax on a real estate investment trust if the deduction for dividends paid for the taxable year does not equal at least 75 percent of its real estate investment trust taxable income (computed as provided in section 4981 as in effect before amendment by the Tax Reform Act of 1986) for the taxable year. For purposes of section 4981 as in effect before amendment by the Tax Reform Act of 1986, the deduction for dividends paid is computed without regard to capital gains dividends (as defined in section 857(b)(3)(C)) and without regard to any dividends actually paid after the close of the taxable year. Thus, dividends considered as paid during the taxable year under section 858 are disregarded. Deficiency dividends (as defined in section 860(f) paid with respect to the taxable year are also disregarded. The return referred to in the last sentence of section 4981 as in effect before amendment by the Tax Reform Act of 1986 in the income tax return. Section 4981 as in effect before amendment by the Tax Reform Act of 1986, applies only to taxable years beginning after December 31, 1979 and ending before January 1, 1987, for which the taxpayer is taxable under Part II of Subchapter M of Chapter 1 of subtitle A as a real estate investment trust.

[T.D. 7767, 46 FR 11282, Feb. 6, 1981; 46 FR 15263, Mar. 5, 1981; T.D. 7936, 49 FR 2109, Jan. 18, 1984; T.D. 8180, 53 FR 6147, Mar. 1, 1988]

#### § 55.4981-2 Imposition of excise tax with respect to certain undistributed income of real estate investment trusts; calendar years beginning after December 31, 1986.

Section 4981, as amended by the Tax Reform Act of 1986, imposes an excise tax on a real estate investment trust in the amount of four percent of the excess, if any, of the required distribu-

tion for a calendar year over the distributed amount for such calendar year. Section 4981, as so amended, applies only to calendar years that begin after December 31, 1986. For provisions relating to the imposition of an excise tax with respect to certain undistributed income of real estate investment trusts for taxable years ending before January 1, 1987, see § 55.4981-1.

[T.D. 8180, 53 FR 6148, Mar. 1, 1988]

### Subpart B—Excise Tax on Regulated Investment Companies

#### § 55.4982-1 Imposition of excise tax on undistributed income of regulated investment companies.

Section 4982 imposes an excise tax on a regulated investment company in the amount of four percent of the excess, if any, of the required distribution for a calendar year over the distributed amount for such calendar year. Section 4982 applies only to calendar years beginning after December 31, 1986.

[T.D. 8180, 53 FR 6148, Mar. 1, 1988]

### Subpart C—Procedure and Administration

SOURCE: T.D. 7767, 46 FR 11282, Feb. 6, 1981; 46 FR 15263, Mar. 5, 1981, unless otherwise noted. Redesignated by T.D. 8180, 53 FR 6148, Mar. 1, 1988.

#### § 55.6001-1 Notice or regulations requiring records, statements, and special returns.

(a) *In general.* Any person subject to tax under Chapter 44 of the Code shall keep such complete and detailed records as are sufficient to enable the district director to determine accurately the amount of liability under Chapter 44.

(b) *Notice by district director requiring returns, statements, or the keeping of records.* The district director may require any person, by notice served upon him, to make such returns, render such statements, or keep such specific records as will enable the district director to determine whether or not such person is liable for tax under Chapter 44.

(c) *Retention of records.* The records required by this section shall be kept

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at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

### § 55.6011-1 General requirement of return, statement, or list.

Every person liable for tax under Chapter 44 shall file an annual return with respect to the tax on the form prescribed by the Internal Revenue Service for such purpose and shall include therein the information required by the form and the instructions issued with respect thereto. For calendar years beginning after December 31, 1986, the return, which must be made on a calendar year basis, shall be filed by a real estate investment trust on Form 8612 and by a regulated investment company on Form 8613.

[T.D. 8180, 53 FR 6148, Mar. 1, 1988]

### § 55.6061-1 Signing of returns and other documents.

Any return required to be made by a real estate investment trust or a regulated investment company with respect to the tax imposed by Chapter 44 shall be signed by a person authorized by section 6062 of the Code to sign the income tax return of the real estate investment trust or the regulated investment company. Any statement or other document required to be made with respect to the tax imposed by Chapter 44 shall be signed by the person required or duly authorized to sign in accordance with the regulations, forms, or instructions prescribed with respect to such statement or document. An individual's signature on a return, statement, or other document made by or for the real estate investment trust or the regulated investment company shall be prima facie evidence that the individual is authorized to sign the return, statement, or other document.

[T.D. 8180, 53 FR 6148, Mar. 1, 1988]

### § 55.6065-1 Verification of returns.

If a return, statement, or other document made under the provisions of Chapter 44 or Subtitle F or the Code or the regulations thereunder with re-

spect to any tax imposed by Chapter 44 of the Code, or the form and instructions issued with respect to such return, statement, or other document, requires that it shall contain or be verified by a written declaration that it is made under the penalties of perjury, it must be so verified by the person or persons required to sign such return, statement, or other document. In addition, any other statement or document submitted under any provision of Chapter 44 or Subtitle F of the Code or regulations thereunder with respect to any tax imposed by Chapter 44 of the Code may be required to contain or be verified by a written declaration that it is made under the penalties of perjury.

### § 55.6071-1 Time for filing returns.

(a) *Returns for calendar years beginning after December 31, 1986.* A return required by § 55.6011-1 for any calendar year beginning after December 31, 1986, shall be filed on or before March 15 of the following calendar year. See § 55.6081-1 for rules relating to extensions of time for filing a return required by § 55.6011-1.

(b) *Returns for excise tax under section 4981 as in effect before amendment by the Tax Reform Act of 1986.* A return required by § 55.6011-1 for any excise tax under section 4981, as in effect before amendment by the Tax Reform Act of 1986, shall be filed at the time (including any extension of time granted or allowed under section 6081) that the real estate investment trust is required to file its income tax return under section 6012 for the taxable year for which the tax under section 4981, as in effect before amendment by the Tax Reform Act of 1986, is imposed.

[T.D. 8180, 53 FR 6148, Mar. 1, 1988]

### § 55.6081-1 Extension of time for filing the return.

The Commissioner is authorized to grant a reasonable extension of time for filing any return, statement, or other document which relates to any tax imposed by Chapter 44 and which is required under the provisions of Chapter 44 or the regulations thereunder. Extensions of time shall not be granted for more than 6 months. An extension

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of time for filing a return shall not operate to extend the time for the payment of the tax or any part thereof unless specified to the contrary in the extension. The rules relating to an application for extension in § 53.6081-1(b) of this Chapter (relating to foundation excise taxes) shall apply to an application for an extension of time for filing the return of tax imposed by Chapter 44. If an extension of time for filing the return is granted, a return shall be filed before the expiration of the period of extension.

[T.D. 7767, 46 FR 11282, Feb. 6, 1981; 46 FR 15263, Mar. 5, 1981. Redesignated by T.D. 8180, 53 FR 6148, Mar. 1, 1988, as amended by T.D. 9163, 69 FR 70550, Dec. 7, 2004]

### § 55.6091-1 Place for filing Chapter 44 tax returns.

Except as provided in § 55.6091-2 (relating to exceptional cases):

(a) *In general.* Chapter 44 tax returns shall be filed with any person assigned the responsibility to receive returns in the local Internal Revenue Service office serving the principal place of business or principal office or agency of the real estate investment trust or regulated investment company.

(b) *Returns filed with service centers or by hand carrying.* Notwithstanding paragraph (a) of this section, unless a return is filed by hand carrying, whenever instructions applicable to Chapter 44 tax returns provide that the returns be filed with a service center, the returns must be so filed in accordance with the instructions. Returns which are filed by hand carrying shall be filed with any person assigned the responsibility to receive hand-carried returns in the local Internal Revenue Service office in accordance with paragraph (a) of this section.

[T.D. 7767, 46 FR 11282, Feb. 6, 1981; 46 FR 15263, Mar. 5, 1981. Redesignated and amended by T.D. 8180, 53 FR 6148, Mar. 1, 1988; T.D. 9156, 69 FR 55746, Sept. 16, 2004]

### § 55.6091-2 Exceptional cases.

Notwithstanding the provisions of § 55.6091-1, the Commissioner may permit the filing of any Chapter 44 tax re-

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turn in any local Internal Revenue Service office.

[T.D. 7767, 46 FR 11282, Feb. 6, 1981; 46 FR 15263, Mar. 5, 1981. Redesignated by T.D. 8180, 53 FR 6148, Mar. 1, 1988, as amended by T.D. 9156, 69 FR 55746, Sept. 16, 2004]

### § 55.6151-1 Time and place for paying of tax shown on returns.

The tax shown on any return which is imposed by Chapter 44 shall, without notice or assessment and demand, be paid to the internal revenue officer with whom the return is filed at the time and place for filing such return (determined without regard to any extension of time for filing the return). For provisions relating to the time and place for filing such return, see §§ 55.6071-1 and 55.6091-1. For provisions relating to the extension of time for paying the tax see § 55.6161-1.

[T.D. 8180, 53 FR 6148, Mar. 1, 1988]

### § 55.6161-1 Extension of time for paying tax or deficiency.

(a) *In general—(1) Tax shown or required to be shown on return.* A reasonable extension of the time for payment of the amount of any tax imposed by Chapter 44 and shown or required to be shown on any return, may be granted by the district directors at the request of the taxpayer. The period of such extension shall not be in excess of 6 months from the date fixed for payment of such tax.

(2) *Deficiency.* The time for payment of any amount determined as a deficiency in respect of tax imposed by Chapter 44 may, at the request of the taxpayer, be extended by the internal revenue officer to whom the tax is required to be paid. The extension may be for a period not to exceed 18 months from the date fixed for payment of the deficiency, as shown on the notice and demand. In exceptional cases, a further extension for a period not in excess of 12 months may be granted. No extension of time for payment of a deficiency shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(3) *Extension of time for filing distinguished.* The granting of an extension

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of time for filing a return does not operate to extend the time for the payment of the tax or any part thereof unless so specified in the extension.

(b) *Certain rules relating to extension of time for paying income tax to apply.* The provisions of § 1.6161-1 (b), and (c), and (d) of this chapter (relating to a requirement for undue hardship, the application for extension, and payment pursuant to an extension) shall apply to extensions of time for payment of the tax imposed by Chapter 44.

### § 56.6165-1 Bonds where time to pay tax or deficiency has been extended.

If an extension of time for payment of tax or deficiency is granted under section 6161, the district director or the director of the service center may, if he deems it necessary, require a bond for the payment of the amount in respect of which the extension is granted in accordance with the terms of the extension. However, the bond shall not exceed double the amount with respect to which the extension is granted. For provisions relating to form of bonds, see the regulations under section 7101 contained in part 301 of this chapter (Regulations on Procedure and Administration).

## PART 56—PUBLIC CHARITY EXCISE TAXES

Sec.

- 56.4911-0 Outline of regulations under section 4911.
- 56.4911-1 Tax on excess lobbying expenditures.
- 56.4911-2 Lobbying expenditures, direct lobbying communications, and grass roots lobbying communications.
- 56.4911-3 Expenditures for direct and/or grass roots lobbying communications.
- 56.4911-4 Exempt purpose expenditures.
- 56.4911-5 Communications with members.
- 56.4911-6 Records of lobbying and grass roots expenditures.
- 56.4911-7 Affiliated group of organizations.
- 56.4911-8 Excess lobbying expenditures of affiliated group.
- 56.4911-9 Application of section 501(h) to affiliated groups of organizations.
- 56.4911-10 Members of a limited affiliated group of organizations.
- 56.6001-1 Notice or regulations requiring records, statements, and special returns.
- 56.6011-1 General requirement of return, statement, or list.

56.6011-4 Requirement of statement disclosing participation in certain transactions by taxpayers.

AUTHORITY: 26 U.S.C. 7805.

Sec. 56.4911-7 also issued under 26 U.S.C. 4911(f)(3).

SOURCE: T.D. 8308, 55 FR 35598, Aug. 31, 1990, unless otherwise noted.

### § 56.4911-0 Outline of regulations under section 4911.

Immediately following is an outline of the regulations under section 4911 of the Internal Revenue Code relating to an excise tax on electing public charities' excess lobbying expenditures.

*§ 56.4911-0 Outline of regulations under section 4911.*

#### *§ 56.4911-1 Tax on excess lobbying expenditures.*

- (a) In general.
- (b) Excess lobbying expenditures.
- (c) Nontaxable amounts.
  - (1) Lobbying nontaxable amount.
  - (2) Grass roots nontaxable amount.
- (d) Examples.

*§ 56.4911-2 Lobbying expenditures, direct lobbying communications, and grass roots lobbying communications.*

- (a) Lobbying expenditures.
  - (1) In general.
  - (2) Overview of § 56.4911 and the definitions of "direct lobbying communication" and "grass roots lobbying communication".
- (b) Influencing legislation: direct and grass roots lobbying communications defined.
  - (1) Direct lobbying communication.
  - (2) Grass roots lobbying communication.
  - (3) Exceptions to the definition of influencing legislation.
  - (4) Examples.
  - (5) Special rule for certain mass media advertisements.
- (c) Exceptions to the definitions of direct lobbying communication and grass roots lobbying communication.
  - (1) Nonpartisan analysis, study, or research exception.
  - (2) Examinations and discussions of broad social, economic, and similar problems.
  - (3) Requests for technical advice.
  - (4) Communications pertaining to "self-defense" by the organization.
- (d) Definitions.
  - (1) Legislation.
  - (2) Action.
  - (3) Legislative body.
  - (4) Administrative bodies.

*§ 56.4911-3 Expenditures for direct and/or grass roots lobbying communications.*

- (a) Definition of term "expenditures for".